



# Report from the Department of Justice

**March 1, 2023**

**Heather Pearlman**

*Deputy Director, Torts Branch*

# Statistics

Reporting Period: 11/16/22 – 2/15/23

Total Petitions Filed in the United States Court of Federal Claims this Reporting Period: **277**

- Involving Minors: **39**
- Involving Adults: **238**

# Statistics

**Reporting Period: 11/16/22 – 2/15/23**

**Total Petitions Adjudicated this Reporting Period: 282**

- **Cases Compensated: 217**
  - **Cases conceded by HHS: 96**
    - **Decisions awarding Damages: 12**
    - **Decisions adopting Proffer: 83**
    - **Decisions adopting Settlement: 1**
  - **Cases not conceded by HHS: 121**
    - **Decisions awarding Damages: 7**
    - **Decisions adopting Proffer: 19**
    - **Decisions adopting Settlement: 95**
- **Cases Not Compensated/Dismissed: 65**

# Statistics

Reporting Period: 11/16/22 – 2/15/23

**Total Petitions Voluntarily Withdrawn this Reporting Period: 28**

- No judgments are issued in withdrawn cases

# Appeals: U.S. Court of Appeals for the Federal Circuit

## Decided Cases

As of February 15, 2023

### Appeals by Petitioner:

- *Loyd v. HHS* (Entitlement): **Affirmed**

### Appeals by Respondent:

- *None currently*

# Appeals: U.S. Court of Appeals for the Federal Circuit

## Pending Cases

As of February 15, 2023

### Appeals by Petitioner:

- ***K.A. v. HHS*** (Entitlement)
- *Cottingham v. HHS* (Attorneys' Fees/Costs)
- *Dimasi v. HHS* (Entitlement)
- *W.J. v. HHS* (Entitlement)
- ***Kalajdzic v. HHS*** (Entitlement)
- *Leming v. HHS* (Entitlement)
- *Ling v. HHS* (Entitlement)
- *Winkler v. HHS* (Entitlement)

### Appeals by Respondent:

- *None currently*

\*Cases in **yellow** are new this reporting period 6

# Appeals: U.S. Court of Federal Claims

## Decided Cases

As of February 15, 2023

### Appeals by Petitioner:

- *Falzon v. HHS* (Entitlement): **Affirmed**
- *Sheller v. HHS* (Attorney's Fees/Costs): **Affirmed**
- *J.S. v. HHS* (Entitlement): **Affirmed**

### Appeals by Respondent:

- *Doles v. HHS* (Entitlement): **Vacated and Remanded**
- *Echols v. HHS* (Entitlement): **Affirmed**
- *Roscoe v. HHS* (Damages): **Affirmed**

# Appeals: U.S. Court of Federal Claims

## Pending Cases

As of February 15, 2023

### Appeals by Petitioner:

- *Bossenbroek v. HHS* (Entitlement)
- *Civatte v. HHS* (Damages)
- *Henkel v. HHS* (Entitlement)
- *Hodge v. HHS* (Entitlement)
- *Howard v. HHS* (Entitlement)
- *Martinez v. HHS* (Entitlement)
- *Rochotte v. HHS* (Entitlement)
- *Weaver v. HHS* (Entitlement)
- *Woods v. HHS* (Entitlement)

# Appeals: U.S. Court of Federal Claims

## Pending Cases

As of February 15, 2023

### Appeals by Respondent:

- ***Hinton v. HHS*** (Entitlement)
- ***Mager v. HHS*** (Entitlement)

# Scheduled Oral Arguments

## U.S. Court of Appeals for the Federal Circuit:

- *None currently*

## U.S. Court of Federal Claims:

- *Mager v. HHS*: April 4, 2023 – 10:30 a.m.

# Adjudicated Settlements\*

Reporting Period: 11/16/22 – 2/15/23

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
1.	Hep A, Hep B, TDaP	SIRVA, Pilomatricoma	1 Year 2 Months 13 Days
2.	Flu	GBS	1 Year 2 Months 20 Days
3.	Flu	SIRVA	1 Year 4 Months 17 Days
4.	Tdap	GBS	1 Year 5 Months 5 Days
5.	Tdap	GBS	1 Year 5 Months 20 Days
6.	Flu	Neuropathy	1 Year 7 Months 17 Days
7.	Hep A, Hep B, Tdap	GBS	1 Year 8 Months 1 Day
8.	Rotavirus	Intussusception	1 Year 8 Months 25 Days
9.	Tdap	SIRVA	1 Year 9 Months 15 Days
10.	Flu	SIRVA	1 Year 10 Months 10 Days
11.	Flu	SIRVA	1 Year 10 Months 18 Days
12.	Tdap	SIRVA	1 Year 10 Months 26 Days

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 11/16/22 – 2/15/23

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
13.	Flu	SIRVA	1 Year 10 Months 26 Days
14.	Tdap	SIRVA	1 Year 11 Months 10 Days
15.	Td	SIRVA	1 Year 11 Months 14 Days
16.	Flu	GBS	1 Year 11 Months 14 Days
17.	Flu	SIRVA	1 Year 11 Months 16 Days
18.	Flu	SIRVA	1 Year 11 Months 18 Days
19.	Tdap	SIRVA	1 Year 11 Months 20 Days
20.	Flu	SIRVA	1 Year 11 Months 22 Days
21.	Flu	SIRVA	1 Year 11 Months 23 Days
22.	Flu	SIRVA	1 Year 11 Months 23 Days
23.	Flu	SIRVA	1 Year 11 Months 28 Days
24.	Flu	Transverse Myelitis	1 Year 11 Months 31 Days

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 11/16/22 – 2/15/23

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
25.	Flu	SIRVA	2 Years 2 Days
26.	Flu	SIRVA	2 Years 6 Days
27.	Flu	SIRVA	2 Years 7 Days
28.	Hep B	SIRVA	2 Years 14 Days
29.	MMR	Arthritis	2 Years 15 Days
30.	Flu	SIRVA	2 Years 17 Days
31.	Flu	SIRVA	2 Years 19 Days
32.	Tdap, MMR, IPV	GBS	2 Years 24 Days
33.	Pneumococcal Conjugate	SIRVA	2 Years 25 Days
34.	Flu	SIRVA	2 Years 1 Month 2 Days
35.	Pneumococcal Conjugate	SIRVA	2 Years 1 Month 3 Days
36.	Flu	SIRVA	2 Years 1 Month 3 Days

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 11/16/22 – 2/15/23

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
37.	Flu	GBS	2 Years 1 Month 4 Days
38.	Tdap	SIRVA	2 Years 1 Month 4 Days
39.	Tdap	SIRVA	2 Years 1 Month 9 Days
40.	Flu	SIRVA	2 Years 1 Month 9 Days
41.	Flu	SIRVA	2 Years 1 Month 10 Days
42.	Flu	SIRVA	2 Years 1 Month 13 Days
43.	Flu	SIRVA	2 Years 1 Month 16 Days
44.	Flu	SIRVA	2 Years 1 Month 25 Days
45.	Flu	SIRVA	2 Years 2 Months 2 Days
46.	Flu	SIRVA	2 Years 2 Months 16 Days
47.	Flu	GBS	2 Years 3 Months 4 Days
48.	Flu	SIRVA	2 Years 3 Months 6 Days

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 11/16/22 – 2/15/23

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
49.	Flu	SIRVA	2 Years 3 Months 13 Days
50.	Flu	SIRVA	2 Years 3 Months 18 Days
51.	Flu	SIRVA	2 Years 3 Months 19 Days
52.	Flu	SIRVA	2 Years 3 Months 25 Days
53.	Flu	GBS	2 Years 3 Months 30 Days
54.	Flu	GBS	2 Years 4 Months 16 Days
55.	Flu	GBS	2 Years 4 Months 21 Days
56.	Flu	SIRVA	2 Years 4 Months 22 Days
57.	Tdap	GBS	2 Years 5 Months 2 Days
58.	Tdap, MMR	GBS	2 Years 5 Months 2 Days
59.	Tdap	SIRVA	2 Years 5 Months 18 Days
60.	Tdap	SIRVA	2 Years 5 Months 21 Days

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 11/16/22 – 2/15/23

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
61.	Flu	Neuritis, Paresthesia, Fatigue	2 Years 6 Months 2 Days
62.	Hep B	SIRVA	2 Years 7 Months 18 Days
63.	Flu	SIRVA	2 Years 7 Months 21 Days
64.	Flu	SIRVA	2 Years 8 Months 1 Day
65.	Flu	SIRVA	2 Years 8 Months 9 Days
66.	Flu	Shoulder Inflammation	2 Years 8 Months 21 Days
67.	Flu	SIRVA	2 Years 9 Months 11 Days
68.	Flu	SIRVA	2 Years 9 Months 19 Days
69.	Flu	Brachial Neuritis	2 Years 9 Months 27 Days
70.	Flu	SIRVA	2 Years 11 Months 17 Days
71.	Flu	SIRVA	3 Years 1 Month 19 Days
72.	Flu	SIRVA	3 Years 2 Months 26 Days

# Adjudicated Settlements\*

Reporting Period: 11/16/22 – 2/15/23

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
73.	Flu	SIRVA	3 Years 3 Months 10 Days
74.	Flu	GBS	3 Years 4 Months 3 Days
75.	Flu	GBS	3 Years 4 Months 15 Days
76.	Flu	SIRVA	3 Years 5 Months 7 Days
77.	Flu	Transverse Myelitis	3 Years 6 Months 5 Days
78.	Flu	SIRVA	3 Years 6 Months 18 Days
79.	Flu	GBS, Transverse Myelitis	3 Years 8 Months 8 Days
80.	Tdap, Rotavirus	Facial Nerve Palsy	3 Years 9 Months 14 Days
81.	Flu	Thrombocytopenic Purpura	3 Years 9 Months 21 Days
82.	Td, MMR	GBS, CIDP	4 Years 3 Days
83.	Flu	Pityriasis Lichenoides Chronica	4 Years 25 Days
84.	Hep B	Lichen Planus	4 Years 2 Months 8 Days

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 11/16/22 – 2/15/23

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
85.	Flu	GBS	4 Years 2 Months 25 Days
86.	Flu	GBS	4 Years 3 Months 20 Days
87.	Tdap	Brachial Neuritis	4 Years 4 Months 3 Days
88.	Flu	GBS, Necrotizing Autoimmune Myositis	4 Years 4 Months 13 Days
89.	Tdap, IPV, Hep B, PCV	Transverse Myelitis	4 Years 8 Months 25 Days
90.	Flu	GBS	4 Years 9 Months 2 Days
91.	Tdap, HIB, Hep B, Polovirus, Pneumococcal	Seizures	5 Years 1 Months 12 Days
92.	Flu	SIRVA	5 Years 3 Months 21 Days
93.	MMR	SIRVA	5 Years 7 Months 20 Days
94.	Flu	Transverse Myelitis	6 Years 1 Month 18 Days
95.	Flu	Transverse Myelitis	6 Years 2 Months 7 Days
96.	Flu	Hearing Loss	7 Years 11 Months 29 Days

\*Terms of compensated settlements memorialized by Stipulation

# Appendix

# Glossary of Terms

- **Petitions Adjudicated:** Final judgment has entered on the petition in the United States Court of Federal Claims.
- **Final Judgment:** Clerk of Court, United States Court of Federal Claims, enters judgment awarding or denying compensation.
- **Compensable:** Petitioner received an award of compensation, which can be achieved through a concession by HHS, settlement, or decision on the merits by the special master, United States Court of Federal Claims.
- **Conceded by HHS:** HHS concluded that a petition should be compensated based on review and analysis of the medical records.

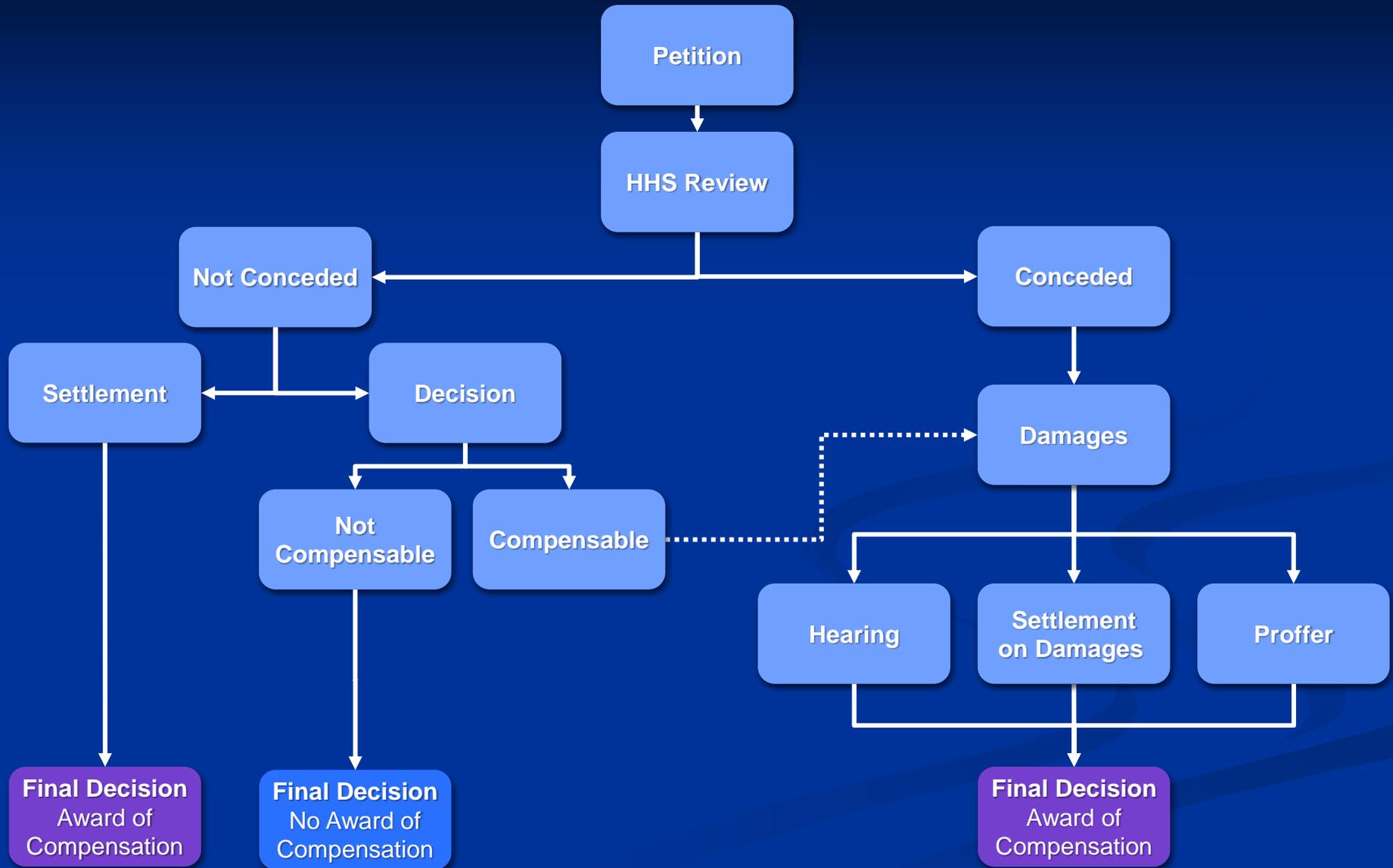
# Glossary of Terms

- **Settlement:** Petition is resolved via a negotiated settlement between the parties, and results in the filing of a stipulation that memorializes the terms of the settlement.
- **Decision:** Special Master issues decision on the merits of the petition.
- **Non-compensable/Dismissed:** Petition dismissed.
- **Proffer:** After discussions between the parties regarding a reasonable amount of damages, respondent will file a suggested award of compensation, known within the Program as a “Proffer,” which is also agreed to by petitioners and their counsel. The Proffer is reviewed by the presiding special master to determine that it represents a reasonable measure of the amount of the award and describes compensation pursuant to 42 U.S.C. § 300aa-15(a). The special master issues a final decision consistent with the terms of the Proffer.

# Glossary of Terms

- **Affirmed:** Case has been reviewed on appeal, and the court on appeal agreed with the decision of the lower court.
- **Reversed:** Case has been reviewed on appeal, and the court on appeal disagreed with the decision of the lower court. The court on appeal typically provides reasons for reversing, and that decision becomes the law of the case, absent further appeal.
- **Remanded:** Case has been reviewed on appeal, and the reviewing court has a problem with the decision and sends it back to the lower court. Typically, a case is remanded with a specific question or issue for the lower court to address.
- **Vacated:** Case has been reviewed on appeal, and the reviewing court has voided the lower court's decision.

# Petition Processing in the Office of Special Masters



# Levels of Appeal in Vaccine Act Cases

U.S. Supreme Court

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Federal Claims

Office of Special Masters

# Appeals Process for Vaccine Act Cases

